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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Wells Fargo Bank NA,

**Plaintiff,**

V.

Breakwater Equity Partners LLC, et al.,

Defendants.

No. CV-13-01475-PHX-DGC

## ORDER

Multiple motions to dismiss the first amended complaint are pending in this case (Doc. 98, 99, 100), and have been joined by various Defendants (Docs. 111, 116). Wells Fargo has also moved to substitute a real party in interest. Doc. 129. Because the Court previously granted Plaintiff's Motion to File a Second Amended Complaint (Doc. 117), and for the reasons that follow, the Court will deny as moot the motions to dismiss (Docs. 98, 99, 100), and grant the motion to substitute a real party in interest. (Doc. 129)<sup>1</sup>

## I. Motions to Dismiss the First Amended Complaint.

Various Defendants have filed motions to dismiss alleging that Plaintiff improperly identified its own citizenship for purposes of diversity jurisdiction. Docs. 98, 99, 100. Plaintiff alleges that “even if the citizenship of a trust is based on the citizenship of the trustee, diversity jurisdiction still exists because the trustee, Wells Fargo Bank,

<sup>1</sup> The request for oral argument is denied because the issues have been adequately briefed and oral argument will not aid the Court's decision. See Fed. R. Civ. P. 78(b); *Partridge v. Reich*, 141 F.3d 920, 926 (9th Cir. 1998).

1 N.A. is a citizen of South Dakota" and "none of the Defendants are citizens of South  
2 Dakota." *Id.*

3 **II. Motion to Substitute Real Party in Interest.**

4 Pursuant to Rule 17(a), Plaintiff has moved to substitute 4801 East Washington  
5 Street Holdings, LLC, as a real party in interest. Doc. 129 at 2. Defendants do not  
6 oppose the motion. Because the Court concludes that the real party in interest has been  
7 substituted within a reasonable time, the Court will grant Plaintiff's motion.

8 **IT IS ORDERED:**

- 9 1. Defendants' motions to dismiss (Doc. 98, 99, 100) are **denied** as moot.  
10 2. Plaintiff's motion to substitute 4801 East Washington Street Holdings, LLC  
11 as the real party in interest (Doc. 129) is **granted**.

12 Dated this 14th day of January, 2014.

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17 David G. Campbell  
18 United States District Judge  
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